

REMARKS

Reconsideration and allowance of the present application in view of the foregoing amendments and the following remarks are respectfully requested.

In the last Official Action, the Examiner rejected claim 1 under the second paragraph of 35 U. S. C. § 112, on the ground that the language defining the various "cushion attachment straps" was unclear. Claim 1 has been amended herein to overcome the Examiner's concerns in this regard. Thus, claim 1 now clearly specifies that the hinge-divided ergonomic cushion upper body portion includes at least a pair of *first upper cushion* attachment straps (16) and at least a pair of *second upper cushion* attachment straps (24); and that the lower body cushion portion includes at least a pair of *first lower cushion* attachment straps (22), and at least a pair of *second lower cushion* attachment straps (26). Claim 1 has been further amended to clearly recite that said at least pair of *second upper cushion* attachment straps and said at least pair of *second lower cushion* attachment straps are greater in longitudinal extent than said at least pair of *first upper cushion* attachment straps and said at least pair of *first lower cushion* attachment straps.

In view of the foregoing amendments to claim 1, the Examiner's rejection of that claim under the second paragraph

of 35 U. S. C. § 112 now is believed to have been avoided and therefore should now be withdrawn.

Claim 1, the only independent claim under prosecution, was further rejected under 35 U.S.C. § 103(a) as unpatentable over **Schick et al** ('956) in view of **Estes et al** ('511).

As pointed out in applicants' prior Amendment of January 2, 2003, in **Schick et al**, the "cushion" is a seat rest, and the attachment tabs are attached only to the back rest portion. They are not (the tabs) attachment straps each adapted to affix said upper body cushion portion or said lower body cushion portion directly to the opposed rail members of a "lounge chair" as specified in amended claim 1. And, of course, as conceded by the Examiner, **Schick et al** do not even remotely disclose or suggest applicants' claimed "second ... cushion attachment straps of greater longitudinal extent than said first ... cushion attachment straps."

The Examiner now relies on **Estes et al** as a secondary reference purporting to disclose a lounge chair cover that has upper cushion attachment straps (18) and lower cushion attachment straps (19) attachable together underneath the lounge chair, and apparently takes the position that this teaching would motivate the routineer to add such straps to **Schick et al**'s car seat.

The Examiner's analysis is erroneous for more than one reason. First, neither **Schick et al** nor **Estes et al** shows or suggests the unique combination of at least a pair of rail attachment straps and at least a pair of underneath attachment straps joined to each cushion portion! Only applicants disclose this novel arrangement. The combination of the two different types of straps attached to each cushion portion enables the cushion to be securely attached to the lounge chair even if there is a slight difference in size between the cushion and the chair. Neither **Schick et al** nor **Estes et al** recognizes this problem, let alone solves it in the same unique manner as disclosed only in the present application.

Moreover, it is well known that when combining references for purposes of finding "obviousness," the entire teachings of the references must be considered, not just "bits and pieces." If one were to modify **Schick et al**'s seat cushion in view of **Estes et al**, one would be motivated merely to substitute a single pair of underneath tie straps for **Schick et al**'s single pair of tabs 30. Even the Examiner would agree that such a modification --the only modification fairly suggested by the references being relied upon -- cannot and would not meet the specific language of claim 1, particularly as amended herein, because the resulting combined structure would lack at least a pair of rail attachment straps and at least a pair of underneath attachment straps joined to each cushion portion.

Finally, it is observed that there is not even a remote teaching or suggestion in **Schick et al** that the attachment tabs 30 therein are capable of being employed to attach the cushion to the rails of a lounge chair as required by the specific language of claim 1. Thus, claim 1 specifies "wherein said at least pair of first upper cushion attachment straps and said at least pair of first lower cushion attachment straps are each adapted to affix said upper body cushion portion and said lower body cushion portion directly to said opposed rail members of said lounge chair."

For the above reasons, it is submitted that the Examiner has attempted to reconstruct applicants' invention by combining various "bits and pieces" from the references using hindsight after reading applicants' disclosure. Accordingly, the rejection of claim 1 under 35 U.S.C. § 103(a), especially as amended herein, is believed to be clearly erroneous and should now be withdrawn.

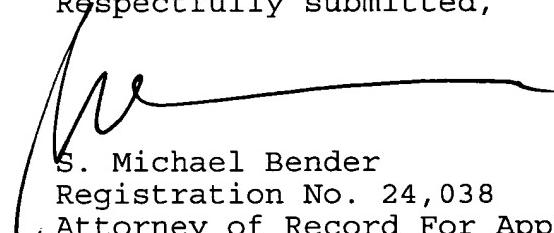
Claims 3, 4, and 6-14 depend from and further restrict claim 1. Because these dependent claims inherit the patentably distinct features of claim 1, as amended, they also are believed allowed for at least the same reasons advanced above.

All grounds of objection and rejection are believed to have been overcome by this Amendment. Hence, the application now is believed to be in condition for immediate allowance containing allowed claims 1, 3, 4, and 6-14, and such favorable action earnestly is solicited.

* * * * *

The Examiner is encouraged to telephone the undersigned to resolve any issues still present in the application and to expedite the prosecution of the application, should the Examiner believe such a telephone conference would be helpful.

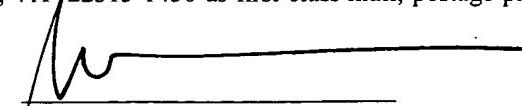
Respectfully submitted,



S. Michael Bender
Registration No. 24,038
Attorney of Record For Applicants
Tel: (727) 866-0900

CERTIFICATE OF MAILING

The undersigned hereby certifies that this **AMENDMENT UNDER 37 § 1.112** is being deposited with the United States Postal Service in an envelope addressed to: MS Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 as first-class mail, postage prepaid on June 15, 2004.



S. Michael Bender
Registration No. 24,038